EXPLANATORY MEMORANDUM TO

THE POLLUTION PREVENTION AND CONTROL (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2009

SR 2009 No. 403

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 4 of the Environment (Northern Ireland) Order 2002 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Amendment Regulations is to include an additional provision in Regulation 10(4) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003 ("the Principal Regulations").

3. Background

3.1. The Principal Regulations control the operation of any installation or mobile plant carrying out activities such as those relating to the energy, mineral and chemical industries, production and processing of metals and waste management.

3.2. Regulation 10(4) of the Principal Regulations states that planning permission should be in force prior to the granting of a permit that will authorise the carrying out of a specified waste management activity.

3.3. The amendment Regulations insert a provision clarifying that where the use of the application site for the carrying out of a specified waste management activity requires planning permission granted under the Planning (Northern Ireland) Order 1991, as amended, a Certificate of Lawful Use or Development is also valid as if it were a grant of planning permission.

4. Consultation

4.1. A public consultation exercise took place between July 2009 and October 2009. A total of 6 responses were received. Three responses welcomed the proposed amendment whilst the remainder were mainly concerned with this legislation taking retrospective effect and also operators beginning activities prior to applying for or receiving their certificates.

5. Equality Impact

5.1. The Department carried out an equality screening exercise on the draft legislation. No adverse impacts for any of the nine section 75 categories were identified. A full Equality Impact Assessment was therefore not required.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment was not considered necessary as this is not a policy change.

7. Financial Implications

7.1. There are no financial implications associated with these Regulations.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Human Rights Impact Assesment carried out concluded that the NI Pollution Prevention and Control (Amendment) Regulations do not breach any of the rights in the European Convention on Human Rights. The NI Amendment Regulations are fully compatible with European Community law. The NI Amendment Regulations do not discriminate against any person or class of person on the grounds of religious belief or political opinion.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. Current GB legislation already includes this provision. The Northern Ireland regulations now replicate the GB regulations.

11. Additional Information

11.1. Not applicable